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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 726 of 1990

New Delhi this the 6th day of April, 1990

Mr. J.P. Sharma, Member (J)
Mr. K. Muthukumar, Member (A)

Shri Om Parkash
R/o Sanjay Colony Baloor Road,
Bahadur Garh,
Rohtak,
Haryana.

Applicant

By Advocate Shri J.N. Verma

Versus

1. Union of India through
Secretary of Ministry of
Home Affairs,
New Delhi.
2. Vice Admiral,
Secretary to the Min. of Defence,
Director General,
Tatrakashak Mukhyalaya,
Coast Guard H. Qrs.,
New Delhi.

Respondents

None for the respondents.

ORDER (ORAL)

Mr. J.P. Sharma, Member (J)

The applicant has been working as M.T. Driver Coast Guard, Headquarters, New Delhi. He has been served with a Memorandum of charge-sheet under Rule 14 of the CCS (CCA) Rules, 1965 dated 15.09.1987. The article of charge against the applicant has been that while functioning as M.T. Driver Grade-II on 13.08.87, he disobeyed the orders of his superior Lt. Karan Singh while refusing to accept the note dated 12.08.87 addressed to him. Further, he used on 14.08.87 at about 1430 hours insubordinate and abusive language against Lt. Karan Singh. Further, he submitted a bill for Rs.79/- from M/s Lakshmi automobiles on

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2.6.1987 towards repair charges for CGHQ Jeep No. MAR 7485, but M/s Lakashmi Automobiles have denied issue of any such bill. There is another charge that he disobeyed the orders at 1250 hours and at 1725 hours on 14.08.87 of the superior officers. The Commander M. Kumar was appointed as Enquiry Authority by the order dated 30.10.1987. The Enquiry Authority gave

a finding. On Article 2 of the charge, the Enquiring Authority has given the benefit of doubt to the on charge No.2 delinquent and the disciplinary authority also agreed with the same. Regarding other charges, the findings have been that the charges are established against the delinquent and these findings have been agreed to by the disciplinary authority. He, therefore, passed the order dated 2.9.88 of removal from service. The applicant also preferred an appeal before the Director General, Coast Guard, which was duly considered by a speaking order dated 27.02.1989 and various contents in the memo of appeal have been considered at length and rejected. The applicant thereafter filed this application in the month of April, 1990 praying for the quashing of the aforesaid order of punishment given to him and for reinstatement in service and further to regularise his service with effect from the date of the order of the disciplinary authority, i.e., 2.9.88.

2. On notice, the respondents filed the reply and contested the application on a number of grounds. It is said that the finding has been arrived at by the Enquiring Authority by adopting the procedure laid down in the CCS (CCA) Rules, 1965 and adequate and sufficient opportunity was afforded to the delinquent

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to defend himself on the memo of charges framed against him. The applicant duly participated in the enquiry. From the evidence adduced in the enquiry before the Enquiring Authority, it was held that he has disobeyed the orders of his superior, i.e., Lt. Karan Singh and that he used insubordinate and abusive language against the said officer and rather submitted false bill of Rs.79/- saying that certain amount was spent in the repair of the vehicle and the amount was paid to M/s Lakshmi Automobiles, which was denied by the said enterprise. The applicant has also filed a rejoinder.

3. We have heard the learned counsel for the applicant Shri J.N. Verma at considerable length. Judicial review in an order passed imposing any penalty as a result of disciplinary departmental enquiry is limited only to find out whether the principles of natural justice has been duly observed and the procedure prescribed in conducting the fair and impartial enquiry; has been thoroughly gone into by the Enquiring Authority. The Tribunal cannot sit as an appellate authority. However, the Tribunal can go into the fact whether the finding arrived at by the Enquiring Authority and at least too by the disciplinary authority, are based on some evidence and that evidence is acceptable on the basis of a reasonable analysis of the same by a reasonable man.

4. We have put a straight question to the learned counsel for the applicant looking to the grounds taken in the original application. Though the grounds have been on the side of exaggerations that documents were not supplied, the procedure was not adopted, the

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opportunity was not given and that the bill had to be accepted ^{on behalf} not as false in as much as the signatures of M/s Lakshmi Automobile resembles with the signature which he usually makes. In fact in every case, the disputed signatures are not to be sent to the Forensic Science Laboratory, such authority can itself compare the disputed signatures and it is not for the Tribunal to go into it. But irrespective of this fact, we find that there are other charges which have been established and which are of insubordination as well as of using insubordinate and abusive language towards superior officer Lt. Karan Singh. The applicant is serving in the Armed Forces of the Government of India. The discipline in the Armed Forces is not only a must, but mandatory and has to be observed with due discipline both expected from civilian as well as combatant staff.

5. We are aware that officers of one batch may become Commander-in-Chief and a person junior to him may be on the lower post may be ranking No.2 in the order of merit at the time of appointment and selection but such No.2 is also bound to give the same respect as if he is a subordinate in all respects to one time senior by one stage. The applicant is only a driver and his sole purpose is to carry out the directions in the interest of administration as well as exigency of Military Service for transporting men and material, as directed. The Officer, Lt. Karan Singh has not been shown to have any animosity, ill-will or bias or any grudge against the low salaried driver to falsely implicate him, which may also amount an insult to his own personality, i.e., ~~in~~ insubordination and using abusive language against him. In view of this, we find that nothing is made out to interfere in any of the orders passed by the authorities. While

we go through the bill and the order passed by the appellate authority, we are doubly convinced that every point raised by the applicant has been duly considered on the touch stone of reliability and on the principles of natural justice.

6. Learned counsel for the applicant has also strenuously pressed that the punishment imposed upon the applicant is severe and harsh. The applicant joined the service after being discharged from the Army in February, 1985. The ugly incident occurred in August, 1987, i.e., about $2\frac{1}{2}$ years of his joining the service. The Tribunal, therefore, cannot interfere in the matter of punishment. The law regarding interference by courts/ departmental enquiry has been recently laid down by the Supreme Court in the case of **State of Tamil Nadu Vs Raja Pandian, JT 1994(7) page 492.**

In that case, the High Court interfered in the matter quashed the and/ punishment. The Supreme Court has given certain guidelines to the courts in which cases, an interference is justified.

7. Regarding the quantum of punishment, the Supreme Court has held that it cannot be interfered, as it is the sole administrative realm. The same view has already been taken earlier in the case of **Ram Chander Vs. U.O.I. reported in 1986(2) SLJ 249.**

8. However, the learned counsel for the applicant has argued that as the applicant was an ex-serviceman and that he should have been given less harsh a punishment which could have made him to be tested/ after serving for some time more, as it was his first fault. We have also seen the authority of **State Bank of India Vs. Samarendra Kishore Endow, JT 1994(1) SC 217.** In that case, the

Supreme Court came to the finding that the punishment imposed on the delinquent is harsh and, therefore, without interfering in the punishment order directed that the respondents may consider the same. We also leave to the discretion of the respondents, if the applicant makes a representation to them, to consider the quantum of punishment imposed upon him. As remaining out of service, the applicant may have become more wiser and learnt to be disciplined but we issue no direction leaving the matter exclusively to the discretion of the respondents and also do not give any further opportunity to the applicant to assail any order to be passed on his representation.

9. The application is, therefore, dismissed leaving the parties to bear their own costs.


(K. MUTHUKUMAR)
MEMBER (A)


(J.P. SHARMA)
MEMBER (J)

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